



Journal of the Senate

State of Indiana

115th General Assembly

First Regular Session

Seventh Meeting Day

Thursday Afternoon

January 18, 2007

The Senate convened at 1:32 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Silent Prayer.

The Pledge of Allegiance to the Flag was led by the President of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Becker	Lubbers
Boots	Meeks ▣
Bowser	Merritt
Bray	Miller
Breaux	Mishler
Broden	Mrvan
Deig	Nugent
Delph ▣	Paul
Dillon	Riegsecker
Drozda	Rogers
Errington ▣	Simpson
Ford	Sipes
Gard	Skinner
Heinold	Smith
Hershman	Steele
Howard ▣	Tallian ▣
Hume	Walker
Jackman	Waltz
Kenley	Waterman ▣
Kruse	Weatherwax
Lanane	Wyss ▣
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 7: present 43; excused 7. [Note: A ▣ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

SB 252 — Becker (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning property.

SB 401 — Dillon (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning

state offices and administration and to make an appropriation.

SB 431 — Gard (Energy and Environmental Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

SB 439 — Delph (Tax and Fiscal Policy)

A BILL FOR AN ACT to repeal a provision of the Indiana Code concerning the general assembly and to make an appropriation.

SB 447 — Paul (Energy and Environmental Affairs)

A BILL FOR AN ACT concerning environmental law.

SB 480 — Wyss, Rogers, Delph, Breaux (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

SB 481 — Landske (Commerce, Public Policy & Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

SB 482 — Sipes (Natural Resources)

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

SB 483 — Drozda (Local Government and Elections)

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

SB 484 — Drozda (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

SB 485 — Simpson (Economic Development and Technology)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 486 — Steele (Agriculture and Small Business)

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

SB 487 — Wyss, Ford, Lanane (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

SB 488 — Ford (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 489 — Ford (Economic Development and Technology)

A BILL FOR AN ACT to amend the Indiana Code concerning

health and to make an appropriation.

SB 490 — Kruse (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

SB 491 — Becker, Deig (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning veterans' affairs.

SB 492 — Breaux (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

SB 493 — Breaux (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

SB 494 — Skinner (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 495 — Skinner (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

SB 496 — Gard, Hershman, Heinold (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 497 — R. Young (Rules and Legislative Procedure)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration. (Vehicle Bill)

SB 498 — R. Young (Rules and Legislative Procedure)

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration. (Vehicle Bill)

SB 499 — Heinold, Steele (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

SB 500 — Kenley (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

SB 501 — Kenley (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

SB 502 — Kenley (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 10

Senate Concurrent Resolution 10, introduced by Senator Skinner:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee to examine the need for homeschool guidelines.

Whereas, Homeschooling is increasing in popularity; recent statistics indicate that as many as 2,000,000 children are homeschooled, roughly 2% of the school-aged population of our country;

Whereas, Homeschooling is legal in all 50 U.S. states, but the laws vary from state to state; and

Whereas, Since it is likely that the number of homeschooled children will continue to grow, it behooves the state of Indiana to study the possible need for some defined homeschooling guidelines: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the legislative council is urged to establish a committee to examine the need for establishing homeschool guidelines.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Education and Career Development.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill 44, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill 48, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill 157, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill 143, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill 18, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 1.

RIEGSECKER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill 180, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

RIEGSECKER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill 10, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 2.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill 101, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

GARD, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill 192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill 94, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 40, line 5, strike "the totally disabled" and insert **"individuals with a total disability"**.

Page 40, line 13, strike "the totally".

Page 40, line 14, strike "disabled" and insert **"individuals with a total disability"**.

Page 77, line 17, delete "have".

(Reference is to SB 94 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill 330, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 9, before "Transfer" insert **"If a licensed child placing agency is responsible for oversight of the foster family home in which the student is placed or for providing services to the student, the department of child services must consult with the licensed child placing agency concerning the determination of, or the recommendations made to the court concerning, where the student attends school."**

Page 3, line 12, strike "and".

Page 3, between lines 12 and 13, begin a new line block indented and insert:

"(2) to whom subsection (d) does not apply; and".

Page 3, line 13, strike "(2)" and insert **"(3)"**.

(Reference is to SB 330 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 3, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 19, after "church" insert **", synagogue, temple, mosque, or house of worship"**.

(Reference is to SB 3 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 5.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 43, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 18, after "the" insert "**unlawful**".

(Reference is to SB 43 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill 154, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 8, delete lines 13 through 14, begin a new line block indented and insert:

"(2) The goals, funding, markets, and structure of recycling in Indiana."

(Reference is to SB 154 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

GARD, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill 262, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 7, line 39, delete "ADM." and insert "**ADM;**

if the principal of the appropriate school and the superintendent of the school corporation in which the school is located jointly agree to enroll the student in the school."

Page 9, line 18, after "8." insert "**(a)**".

Page 9, between lines 23 and 24, begin a new paragraph and insert:

"(b) Not later than seven (7) days after receiving a request under subsection (a), the superintendent of the school corporation in which a parent seeks to enroll a student shall notify the superintendent of the student's base school corporation of the request. Upon receiving notification, the superintendent of the student's base school corporation may send a letter to:

(1) the superintendent of the school corporation in which the parent seeks to enroll the student; and

(2) the parent;

objecting to the transfer on the grounds that it is not in the best interests of the student for the transfer to be granted, along with the reasons it is not in the best interests of the student. The letter shall be made a part of the student's file.

(c) The superintendent of the school corporation in which a parent seeks to enroll a student may deny the request on the grounds that it is not in the best interests of the student."

(Reference is to SB 262 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 3.

LUBBERS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill 142, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 12, after "costs." insert "**the greater of**".

Page 2, line 12, after "page" insert "**or the actual cost to the agency of copying or transmitting the document by facsimile**".

(Reference is to SB 142 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill 5, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 5, line 8, delete "2009." and insert "**2011**".

(Reference is to SB 5 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MILLER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill 17, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 33-24-11-1 IS amended TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The Indiana child custody and support advisory committee is established. The committee consists of ~~twelve (12)~~ **fourteen (14)** members as follows:

(1) One (1) judge, ~~or~~ magistrate, **or commissioner** whose jurisdiction and caseload includes domestic relations.

(2) One (1) attorney admitted to the practice of law in Indiana who conducts at least fifty percent (50%) of the attorney's practice in the area of domestic relations.

(3) Eight (8) members of the general assembly, with the members chosen from the standing committees that consider child custody and support matters.

(4) A custodial parent.

(5) A noncustodial parent.

(6) The director of the child support bureau of the department of child services.

(7) A person designated by the Indiana prosecuting attorneys council.

(b) The appointments under subsection (a)(3) must include the following:

(1) Four (4) members from the senate, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(2) Four (4) members from the house of representatives, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(c) Appointments of the committee members shall be made as follows:

(1) The speaker of the house of representatives shall appoint the members under subsection (a)(1) and (a)(4) and the four (4) members from the house of representatives under subsection (a)(3).

(2) The president pro tempore of the senate shall appoint the members under subsection (a)(2) and (a)(5) and the four (4) members from the senate under subsection (a)(3).

(d) The members appointed under subsection (a)(1) and (a)(2) must be of opposite gender.

(e) The members appointed under subsection (a)(4) and (a)(5) must be of opposite gender.

SECTION 2. An emergency is declared for this act.

(Reference is to SB 17 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill 49, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 12, after "by" insert "**certified**".

(Reference is to SB 49 as printed January 9, 2007.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 1.

BRAY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 21, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.173-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex **or violent** offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 2. IC 5-2-6-14, AS AMENDED BY P.L.173-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

- (2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
- (3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.
- (d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.
- (e) The institute may use money in the fund to:
 - (1) pay the costs of administering the fund, including expenditures for personnel and data;
 - (2) support the **registration of sex or violent offenders under IC 11-8-8 and the Indiana sex and violent offender registry established under ~~IC 11-8-8~~; IC 36-2-13-5.5**;
 - (3) provide training for persons to assist victims; and
 - (4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 3. IC 10-13-3-5, AS AMENDED BY P.L.20-2006, SECTION 1, AND AS AMENDED BY P.L.140-2006, SECTION 4 AND P.L.173-2006, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

- (1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
- (2) Information, *including a photograph*, regarding a sex ~~and violent~~ **or violent** offender (as defined in ~~IC 5-2-12-4~~) **IC 11-8-8-5**) obtained through sex ~~and violent~~ **or violent** offender registration under ~~IC 5-2-12~~; **IC 11-8-8**.
- (3) Any disposition, including sentencing, and correctional system intake, transfer, and release.
- (4) *A photograph of the person who is the subject of the information described in subdivisions (1) through (3).*

SECTION 4. IC 10-13-3-27, AS AMENDED BY P.L.1-2006, SECTION 171, AND AS AMENDED BY P.L.140-2006, SECTION 5 AND P.L.173-2006, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release a limited criminal history to or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and *has provided* criminal history data ~~as~~ required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;

- (7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is currently residing in a location designated by the department of child services (established by ~~IC 31-33-1-5-2~~) **IC 31-25-1-1**) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
- (10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
- (11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;
- (12) is being sought by the parent locator service of the child support bureau of the ~~division~~ department of ~~family and children~~; *child services*;
- (13) is or was required to register as a sex ~~and~~ **or violent** offender under ~~IC 5-2-12~~; **IC 11-8-8**; or
- (14) has been convicted of any of the following:
 - (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
 - (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Child exploitation (IC 35-42-4-4(b)).
 - (E) Possession of child pornography (IC 35-42-4-4(c)).
 - (F) Vicarious sexual gratification (IC 35-42-4-5).
 - (G) Child solicitation (IC 35-42-4-6).
 - (H) Child seduction (IC 35-42-4-7).
 - (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
 - (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for any of the following purposes:
 - (A) Employment with a state or local governmental entity.
 - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who **knowingly or intentionally** uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 5. IC 10-13-3-30, AS AMENDED BY P.L.173-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

- (1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
- (2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.
- (3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the department of child services.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the **registration of sex or violent offenders under IC 11-8-8 or the Indiana sex and violent offender registry under ~~IC 11-8-8~~ IC 36-2-13-5.5** or concerns a person required to register as a sex **or violent** offender under IC 11-8-8.

SECTION 6. IC 10-13-4-4, AS AMENDED BY P.L.173-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

- (1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.
- (2) A petition alleging that the child is a delinquent child.
- (3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
- (4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.
- (5) Information:

- (A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 11-8-8-5 if committed by an adult; and
- (B) that is obtained through sex **or violent** offender registration under IC 11-8-8.

SECTION 7. IC 11-8-2-12.4, AS ADDED BY P.L.173-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.4. The department shall do the following:

- (1) Maintain the Indiana sex **and violent** offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex **or violent** offender registration as required by IC 11-8-8.

(3) Provide:

- (A) judges;
- (B) law enforcement officials;
- (C) prosecuting attorneys;
- (D) parole officers;
- (E) probation officers; and
- (F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex **and violent** offender registry.

(4) Upon request of a neighborhood association:

- (A) transmit to the neighborhood association information concerning sex **or violent** offenders who reside near the location of the neighborhood association; or
- (B) provide instructional materials concerning the use of the Indiana sex **and violent** offender registry to the neighborhood association.

SECTION 8. IC 11-8-2-13, AS ADDED BY P.L.173-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The Indiana sex **and violent** offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12.4 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.

(b) The department shall do the following:

- (1) Ensure that the Indiana sex **and violent** offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).
- (2) Publish the Indiana sex **and violent** offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex **and violent** offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex **or violent** offense or has been adjudicated a delinquent child for an act that would be a sex **or violent** offense if committed by an adult."

SECTION 9. IC 11-8-8-3, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "principal residence" means the residence where a sex **or violent** offender spends the most time. The term includes a residence owned or leased by another person if the sex **or violent** offender:

- (1) does not own or lease a residence; or
- (2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex **or violent** offender.

SECTION 10. IC 11-8-8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).

- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
- (13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).
- (14) An attempt or a conspiracy to commit a crime listed in subdivisions (1) through (13).
- (15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

- (1) a person who is required to register as a sex offender in any jurisdiction; and
- (2) a child who has committed a delinquent act and who:
 - (A) is at least fourteen (14) years of age;
 - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
 - (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 11. IC 11-8-8-5, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this chapter, "sex **or violent** offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less

than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) Murder (IC 35-42-1-1).

~~(14)~~ (15) An attempt or a conspiracy to commit a crime listed in subdivisions (1) through ~~(13)~~: **(14)**.

~~(15)~~ (16) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through ~~(14)~~: **(15)**.

(b) The term includes:

- (1) a person who is required to register as a sex **or violent** offender in any jurisdiction; and
- (2) a child who has committed a delinquent act and who:
 - (A) is at least fourteen (14) years of age;
 - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
 - (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 12. IC 11-8-8-7, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex **or violent** offender who resides in Indiana. A sex **or violent** offender resides in Indiana if either of the following applies:

- (A) The sex **or violent** offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.
- (B) The sex **or violent** offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex **or violent** offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time: ~~for a period:~~

- (A) **for a period** exceeding fourteen (14) consecutive days; or
- (B) for a total period exceeding thirty (30) days;

during any calendar year in Indiana, whether the sex **or violent** offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex **or violent** offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex **or violent** offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex **or violent** offender resides. If a sex **or violent** offender resides in more than one (1) county, the sex **or violent** offender shall register with the

local law enforcement authority in each county in which the sex **or violent** offender resides. If the sex **or violent** offender is also required to register under subsection (a)(2) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex **or violent** offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex **or violent** offender is or intends to be employed or carry on a vocation. If a sex **or violent** offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex **or violent** offender shall register with the local law enforcement authority in each county. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex **or violent** offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex **or violent** offender is enrolled or intends to be enrolled as a student. If the sex **or violent** offender is also required to register under subsection (a)(1) or (a)(2), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex **or violent** offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex **or violent** offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex **or violent** offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex **or violent** offender committed to the department shall register with the department before the sex **or violent** offender is released from incarceration. The department shall forward the sex **or violent** offender's registration information to the local law enforcement authority of every county in which the sex **or violent** offender is required to register.

(g) This subsection does not apply to a sex **or violent** offender who is a sexually violent predator. A sex **or violent** offender not committed to the department shall register not more than seven (7) days after the sex **or violent** offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex **or violent** offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex **or violent** offender's arrival in

that county or acquisition of real estate in that county.

(h) This subsection applies to a sex **or violent** offender who is a sexually violent predator. A sex **or violent** offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex **or violent** offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex **or violent** offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex **or violent** offender registers under this section shall make and publish a photograph of the sex **or violent** offender on the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex **or violent** offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex **or violent** offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

(j) When a sex **or violent** offender registers, the local law enforcement authority shall:

- (1) immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5; and
- (2) notify every law enforcement agency having jurisdiction in the county where the sex **or violent** offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex **or violent** offender during registration.

SECTION 13. IC 11-8-8-8, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The registration required under this chapter must include the following information:

- (1) The sex **or violent** offender's full name, alias, any name by which the sex **or violent** offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's

license number or state identification number, principal residence address, and mailing address, if different from the sex **or violent** offender's principal residence address.

(2) A description of the offense for which the sex **or violent** offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex **or violent** offender's employers in Indiana, the name and address of each campus or location where the sex **or violent** offender is enrolled in school in Indiana, and the address where the sex **or violent** offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex **or violent** offender.

(5) If the sex **or violent** offender is a sexually violent predator, that the sex **or violent** offender is a sexually violent predator.

(6) If the sex **or violent** offender is required to register for life, that the sex **or violent** offender is required to register for life.

(7) Any other information required by the department.

SECTION 14. IC 11-8-8-9, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Not more than seven (7) days before an Indiana sex **or violent** offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that the sex **or violent** offender was orally informed or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was orally informed of the duty to register.

(2) Deliver a form advising the sex **or violent** offender of the sex **or violent** offender's duty to register under this chapter and require the sex **or violent** offender to sign a written statement that the sex **or violent** offender received the written notice or, if the sex **or violent** offender refuses to sign the statement, certify that the sex **or violent** offender was given the written notice of the duty to register.

(3) Obtain the address where the sex **or violent** offender expects to reside after the sex **or violent** offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex **or violent** offender expects to reside the sex **or violent** offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex **or violent** offender.

(b) Not more than seventy-two (72) hours after a sex **or violent** offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex **or violent** offender's fingerprints, photograph, and identification factors.

(2) The address where the sex **or violent** offender expects to reside after the sex **or violent** offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex **or violent** offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex **or violent** offender.

(4) Information regarding the sex **or violent** offender's past treatment for mental disorders.

(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex **or violent** offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex **or violent** offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 15. IC 11-8-8-10, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Notwithstanding any other law, upon receiving a sex **or violent** offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

SECTION 16. IC 11-8-8-11, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) If a sex **or violent** offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex **or violent** offender stays in Indiana;

the sex **or violent** offender shall register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex **or violent** offender last registered.

(b) If a sex **or violent** offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex **or violent** offender's residence and forward all relevant registration information concerning the sex **or violent** offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex **or violent** offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex **or violent** offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex **or violent** offender's principal place of employment, principal place of vocation, or campus or location where the sex **or violent** offender is enrolled in school, the sex **or violent** offender shall register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex **or violent** offender last registered.

(d) If a sex **or violent** offender moves the sex **or violent** offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex **or violent** offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex **or violent** offender moves the sex **or violent** offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex **or violent** offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex **or violent** offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex **and violent** offender registry web site established under IC 36-2-13-5.5.

SECTION 17. IC 11-8-8-12, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) As used in this section, "temporary residence" means a residence:

- (1) that is established to provide transitional housing for a person without another residence; and
- (2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex **or violent** offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex **or violent** offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

- (1) not more than seventy-two (72) hours after the sex **or violent** offender moves into the temporary residence; and
- (2) during the period in which the sex **or violent** offender resides in a temporary residence, at least once every seven (7) days following the sex **or violent** offender's initial registration under subdivision (1).

(c) A sex **or violent** offender's obligation to register in person once every seven (7) days terminates when the sex **or violent** offender no longer resides in the temporary residence. However, all other requirements imposed on a sex **or violent** offender by this chapter continue in force, including the requirement that a sex **or violent** offender register the sex **or violent** offender's new address with the local law enforcement authority.

SECTION 18. IC 11-8-8-13, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) To verify a sex **or violent** offender's current residence, the local law enforcement authority shall do the following:

- (1) Mail a reply form to each sex **or violent** offender in the county at the sex **or violent** offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex **or violent** offender is:
 - (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
 - (B) placed in a community transition program;
 - (C) placed in a community corrections program;
 - (D) placed on parole; or
 - (E) placed on probation;
 whichever occurs first.

(2) Mail a reply form to each sex **or violent** offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex **or violent** offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(3) Personally visit each sex **or violent** offender in the county at the sex **or violent** offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex **or violent** offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(4) Personally visit each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(b) If a sex **or violent** offender fails to return a signed reply form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

SECTION 19. IC 11-8-8-14, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. At least once per calendar year, a sex **or violent** offender who is required to register under this chapter shall:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

SECTION 20. IC 11-8-8-15, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) A sex **or violent**

offender who is a resident of Indiana shall obtain and keep in the sex **or violent** offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex **or violent** offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex **or violent** offender's possession:

- (1) a valid driver's license issued by the state in which the sex **or violent** offender resides; or
- (2) a valid state issued identification card issued by the state in which the sex **or violent** offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex **or violent** offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

- (1) is a sexually violent predator; or
- (2) has a prior unrelated conviction:
 - (A) under this section; or
 - (B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

- (1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or
- (2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

SECTION 21. IC 11-8-8-16, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) A sex **or violent** offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex **or violent** offender who is required to register under this chapter changes the sex **or violent** offender's name due to marriage, the sex **or violent** offender must register with the local law enforcement authority not more than seven (7) days after the name change.

SECTION 22. IC 11-8-8-17, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. A sex **or violent** offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex **or violent** offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex **or violent** offender under this chapter; or
- (4) fails to register in person and be photographed at least one (1) time per year as required under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex **or violent** offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex **or violent** offender under this chapter.

SECTION 23. IC 11-8-8-19, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) Except as provided in subsections (b) through (e), a sex **or violent** offender is required to register under this chapter until the expiration of ten (10) years after the date the sex **or violent** offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex **or violent** offender is notified that the obligation to register has expired.

(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex **or violent** offender who is convicted of at least one (1) sex **or violent** offense that the sex **or violent** offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex **or violent** offender who is convicted of at least one (1) sex **or violent** offense in which the sex **or violent** offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex **or violent** offender who is convicted of at least two (2) unrelated sex **or violent** offenses is required to register for life.

SECTION 24. IC 11-8-8-20, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex **or violent** offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex **or violent** offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex **or violent** offender is required to register in Indiana of:

- (1) the sex **or violent** offender's name, date of relocation, and new address; and
- (2) the sex **or violent** offense or delinquent act committed by the sex **or violent** offender.

(d) The state agency shall determine, following a hearing:

- (1) whether a person convicted of an offense in another jurisdiction is required to register as a sex **or violent** offender in Indiana;
- (2) whether an out of state sex **or violent** offender is a sexually violent predator; and
- (3) the period in which an out of state sex **or violent** offender who has moved to Indiana will be required to register as a sex **or violent** offender in Indiana.

SECTION 25. IC 11-13-3-4, AS AMENDED BY P.L.60-2006, SECTION 1, AS AMENDED BY P.L.139-2006, SECTION 2, AS AMENDED BY P.L.140-2006, SECTION 15, AND AS AMENDED BY P.L.173-2006, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is a sex ~~and violent~~ offender (as defined in ~~IC 5-2-12-4~~ ~~IC 11-8-8-5~~ IC 11-8-8-4.5) to:
 - (A) participate in a treatment program for sex offenders approved by the parole board; and
 - (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
 - (i) receives the parole board's approval; or
 - (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

- (A) require a parolee who is ~~an~~ a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5) to register with a ~~sheriff (or the police chief of a consolidated city)~~ local law enforcement authority under ~~IC 5-2-12-5~~ IC 11-8-8;
- (B) prohibit ~~the~~ a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, ~~unless the sex offender obtains written approval from the parole board; and~~
- (C) prohibit a parolee who is ~~an~~ a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense ~~unless the sex offender obtains a waiver under IC 35-38-2-2.5; and~~
- (D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is ~~an~~ a sex **or violent** offender convicted of a sex **or violent** offense (as defined in IC 35-38-2-2.5) is confidential, *even if the sex **or violent** offender obtains a waiver under IC 35-38-2-2.5.*

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

~~††~~ (j) As a condition of parole, the parole board:

- (1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and
- (2) may require a parolee who is a sex **or violent** offender (as defined in ~~IC 5-2-12-4~~ IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

~~††~~ (k) As a condition of parole, the parole board may prohibit, in accordance with ~~IC 35-38-2-2.5~~ IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 26. IC 25-20.2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) An individual who applies for a license as a home inspector must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

- (A) is at least eighteen (18) years of age;
- (B) has graduated from high school or earned an Indiana general educational development (GED) diploma; and
- (C) has not been:
 - (i) convicted of an act that would constitute a ground for disciplinary sanction under IC 25-1-11;
 - (ii) convicted of a crime that has a direct bearing on the individual's ability to perform competently and fully as a licensee;
 - (iii) listed on a national or state registry of sex **or violent** offenders; or
 - (iv) the subject of a disciplinary or enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors.

(2) Verify the information submitted on the application form.

(3) Complete a board approved training program or course of study involving the performance of home inspections and the preparation of home inspection reports and pass an examination prescribed or approved by the board.

(4) Submit to the board a certificate of insurance or other evidence of financial responsibility that is acceptable to the board and that:

- (A) is issued by an insurance company or other legal entity authorized to transact business in Indiana;
- (B) provides for general liability coverage of at least one hundred thousand dollars (\$100,000);
- (C) lists the state as an additional insured;
- (D) states that cancellation and nonrenewal of the underlying policy or other evidence of financial responsibility is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and
- (E) contains any other terms and conditions established by the board.

(5) Pay a licensing fee established by the board.

(b) An individual applying for a license as a home inspector must apply on a form prescribed and provided by the board.

SECTION 27. IC 31-19-11-1, AS AMENDED BY P.L.140-2006, SECTION 17 AND P.L.173-2006, SECTION 17, AND AS AMENDED BY P.L.145-2006, SECTION 253, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

- (1) the adoption requested is in the best interest of the child;
- (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;
- (3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
- (4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with

IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the *department's state department of health's* affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (IC 35-46-1-4(d)).
- (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12),

(16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is ~~not~~ a sex or violent offender (as defined in ~~IC 5-2-12-4~~; IC 11-8-8-5).

SECTION 28. IC 35-43-1-2, AS AMENDED BY P.L.173-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

- (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
- (ii) the property damaged was a moving motor vehicle;
- (iii) the property damaged contained data relating to a person required to register as a sex or violent offender under IC 11-8-8 and the person is not a sex or violent offender or was not required to register as a sex or violent offender;
- (iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;
- (v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;
- (vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or
- (vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

- (i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);
- (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
- (iii) the damage is to a public record;
- (iv) the property damaged contained data relating to a person required to register as a sex or violent offender under IC 11-8-8 and the person is a sex or violent offender or was required to register as a sex or violent offender;
- (v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;
- (vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or

(vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:
 - (A) adjacent to; and
 - (B) owned or rented in common with;
- a structure or facility identified in subdivision (1) or (2); or
- (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 29. IC 35-50-2-2, AS AMENDED BY P.L.151-2006, SECTION 28, AND AS AMENDED BY P.L.140-2006, SECTION 36 AND P.L.173-2006, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.
- (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole,

whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

- (A) murder (IC 35-42-1-1);
- (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
- (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- (D) kidnapping (IC 35-42-3-2);
- (E) confinement (IC 35-42-3-3) with a deadly weapon;
- (F) rape (IC 35-42-4-1) as a Class A felony;
- (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
- (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
- (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
- (M) escape (IC 35-44-3-5) with a deadly weapon;
- (N) rioting (IC 35-45-1-2) with a deadly weapon;
- (O) dealing in cocaine *or* a narcotic drug ~~or methamphetamine~~ (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) *dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:*

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or

within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

~~(R)~~ (R) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

~~(S)~~ (S) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or

~~(T)~~ (T) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~the sentence of~~ ~~a sex offender's or violent offender~~ (as defined in ~~IC 5-2-12-4~~) ~~IC 11-8-8-5~~ sentence that is suspendible under subsection (b), the court shall place the ~~sex or violent~~ offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) *or IC 35-48-4-6.1(b)(1)(B)* may not be suspended.

SECTION 30. IC 36-2-13-5.5, AS AMENDED BY P.L.173-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex **and violent** offender **registry** web site, known as the Indiana sex **and violent** offender registry, to inform the general public about the identity, location, and appearance of every sex **or violent** offender residing within Indiana. The web site must provide information regarding each sex **or violent** offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex **and violent** offender **registry** web site must include the following information:

- (1) A recent photograph of every sex **or violent** offender who has registered with a sheriff. ~~after the effective date of this chapter.~~
- (2) The home address of every sex **or violent** offender.
- (3) The information required under IC 11-8-8-8.

(c) Every time a sex **or violent** offender registers, but at least once per year, the sheriff shall photograph the sex **or violent** offender. The sheriff shall place this photograph on the Indiana sex **and violent** offender **registry** web site.

(d) The photograph of a sex **or violent** offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.
- (6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex **and violent** offender **registry** web site.

(e) The Indiana sex **and violent** offender **registry** web site may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21);
- (2) a grant from the criminal justice institute; and
- (3) any other source, subject to the approval of the county fiscal body.

SECTION 31. IC 36-3-1-5.1, AS AMENDED BY P.L.1-2006, SECTION 559, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.

(b) The city-county legislative body may not adopt an ordinance under this section unless it first:

- (1) holds a public hearing on the proposed consolidation; and
- (2) determines that:
 - (A) reasonable and adequate police protection can be provided through the consolidation; and
 - (B) the consolidation is in the public interest.

(c) If an ordinance is adopted under this section, the consolidation shall take effect on the date specified in the ordinance.

(d) Notwithstanding any other law, an ordinance adopted under this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

- (1) County jail operations and facilities.
- (2) Emergency communications.
- (3) Security for buildings and property owned by:
 - (A) the consolidated city;
 - (B) the county; or
 - (C) both the consolidated city and county.
- (4) Service of civil process and collection of taxes under tax warrants.
- (5) Sex **or violent** offender registration.

(e) The following apply if an ordinance is adopted under this section:

- (1) The department of local government finance, on recommendation from the local government tax control board, shall adjust the maximum permissible ad valorem property tax levy of the consolidated city and the county for property taxes first due and payable in the year a consolidation takes effect under this section. When added together, the adjustments under this subdivision must total zero (0).
- (2) The ordinance must specify which law enforcement officers of the police department and which law enforcement officers of the county sheriff's department shall be law enforcement officers of the consolidated law enforcement department.
- (3) The ordinance may not prohibit the providing of law enforcement services for an excluded city under an interlocal agreement under IC 36-1-7.
- (4) A member of the county police force who:
 - (A) was an employee beneficiary of the sheriff's pension trust before the consolidation of the law enforcement departments; and
 - (B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department; remains an employee beneficiary of the sheriff's pension trust. The member retains, after the consolidation, credit in the sheriff's pension trust for service earned while a member of the county police force and continues to earn service credit in the sheriff's pension trust as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the sheriff's pension trust.
- (5) A member of the police department of the consolidated city who:
 - (A) was a member of the 1953 fund or the 1977 fund before the consolidation of the law enforcement departments; and
 - (B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department; remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the consolidated law enforcement department for purposes of determining the member's benefits from the 1953 fund or the 1977 fund.
- (6) The ordinance must designate the merit system that shall apply to the law enforcement officers of the consolidated law enforcement department.
- (7) The ordinance must designate who shall serve as a coapplicant for a warrant or an extension of a warrant under IC 35-33.5-2.
- (8) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated law enforcement department. The police special service district established under section 6 of this chapter may levy property taxes to provide for the

payment of expenses for the operation of the consolidated law enforcement department within the territory of the police special service district. Property taxes to fund the pension obligation under IC 36-8-7.5 may be levied only by the police special service district within the police special service district. The consolidated city may not levy property taxes to fund the pension obligation under IC 36-8-7.5. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the police department of the consolidated city on the effective date of the consolidation may be levied only by the police special service district within the police special service district. Property taxes to fund the pension obligation under IC 36-8-10 for members of the sheriff's pension trust and under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the police department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the consolidated city's maximum permissible ad valorem property tax levy. The assets of the consolidated city's 1953 fund and the assets of the sheriff's pension trust may not be pledged after the effective date of the consolidation as collateral for any loan. (9) The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year following the adoption of the consolidation ordinance and for the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 32. IC 36-8-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or ~~his~~ **the sheriff's** designee, shall deposit all money from commissary sales into the fund, which ~~he~~ **the sheriff or the sheriff's designee** shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or ~~his~~ **the sheriff's** designee, at ~~his~~ **the sheriff's or the sheriff's designee's** discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (1) merchandise for resale to inmates through the commissary;
- (2) expenses of operating the commissary, including, but not limited to, facilities and personnel;
- (3) special training in law enforcement for employees of the sheriff's department;
- (4) equipment installed in the county jail;
- (5) equipment, including vehicles and computers, computer software, communication devices, office machinery and

furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;

(6) an activity provided to maintain order and discipline among the inmates of the county jail;

(7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:

(A) Substance abuse.

(B) Child abuse.

(C) Domestic violence.

(D) Drinking and driving.

(E) Juvenile delinquency;

(8) expenses related to the establishment, operation, or maintenance of the sex **and violent** offender **registry** web site under IC 36-2-13-5.5; or

(9) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the county fiscal body. The semiannual reports are due on July 1 and December 31 of each year. (Reference is to SB 21 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 70, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning State Offices and Administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-8.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. **(a) The individual elected as treasurer of state shall take office on January 1 following the individual's election.**

(b) The treasurer of state and his deputy treasurers shall each give bond in an amount determined by the auditor of state and the governor. The bond shall be conditioned on the faithful performance of the duties as treasurer of state and deputy treasurer, respectively. The bond must be procured from a surety company authorized by law to transact business in this state.

SECTION 2. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of having:

- (1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;
- (2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or
- (3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

(c) In the case of a person whose term of office commences after the election on November 5, 2002, as Auditor of State, Secretary of State, or Treasurer of State, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

(d) This subsection applies to an individual elected to the office of Treasurer of State at the election on November 7, 2006. The individual shall be vested if the individual is reelected as Treasurer of State at the 2010 general election and serves in the office until January 1, 2015.

(Reference is to SB 70 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Local Government and Elections.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 22, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 14-8-2-49.2, AS ADDED BY P.L.225-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 49.2. (a) "Compact", for purposes of IC 14-24-4.5, has the meaning set forth in IC 14-24-4.5-2(8).

(b) "Compact", for purposes of IC 14-25-15, has the meaning set forth in IC 14-25-15-1.

SECTION 2. IC 14-25-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 15. Great Lakes - St. Lawrence River Basin Water Resources Compact

Sec. 1. The following interstate agreement on the use of water resources in the Great Lakes - St. Lawrence River basin is enacted into law and entered into by this state with all other states legally joining the interstate agreement in substantially the following form:

AGREEMENT

Section 1. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

ARTICLE 1

SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

Section 1.1. Short title. This act shall be known and may be cited as the "Great Lakes—St. Lawrence River Basin Water Resources Compact."

Section 1.2. Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

"Adaptive management" means a water resources management system that provides a systematic process for evaluation, monitoring, and learning from the outcomes of operational programs and adjustment of policies, plans, and programs based on experience and the evolution of scientific knowledge concerning water resources and water dependent natural resources.

"Agreement" means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

"Applicant" means a person who is required to submit a proposal that is subject to management and regulation under this compact. "Application" has a corresponding meaning.

"Basin" or "Great Lakes—St. Lawrence River basin" means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec, within the jurisdiction of the parties.

"Basin ecosystem" or "Great Lakes—St. Lawrence River basin ecosystem" means the interacting components of air, land, water, and living organisms, including humankind, within the basin.

"Community within a straddling county" means any incorporated city, town, or the equivalent thereof, that is located outside the basin but wholly within a county that lies partly within the basin and that is not a straddling community.

"Compact" means this compact.

"Consumptive use" means that portion of the water withdrawn or withheld from the basin that is lost or otherwise

not returned to the basin due to evaporation, incorporation into products, or other processes.

"Council" means the Great Lakes—St. Lawrence River basin water resources council, created by this compact.

"Council review" means the collective review by the council members as described in article 4 of this Compact.

"County" means the largest territorial division for local government in a state. The county boundaries shall be defined as those boundaries that exist as of December 13, 2005.

"Cumulative impacts" means the impact on the basin ecosystem that results from incremental effects of all aspects of a withdrawal, diversion, or consumptive use in addition to other past, present, and reasonably foreseeable future withdrawals, diversions, and consumptive uses regardless of who undertakes the other withdrawals, diversions, and consumptive uses. Cumulative impacts can result from individually minor but collectively significant withdrawals, diversions, and consumptive uses taking place over a period of time.

"Decision making standard" means the decision making standard established by section 4.11 for proposals subject to management and regulation in section 4.10.

"Diversion" means a transfer of water from the basin into another watershed, or from the watershed of one (1) of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the basin or a Great Lake watershed to manufacture or produce a product that is then transferred out of the basin or watershed. "Divert" has a corresponding meaning.

"Environmentally sound and economically feasible water conservation measures" means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that:

- (i) are environmentally sound;
- (ii) reflect best practices applicable to the water use sector;
- (iii) are technically feasible and available;
- (iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs; and
- (v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, processes employed, energy impacts, and other appropriate factors.

"Exception" means a transfer of water that is excepted under section 4.9 from the prohibition against diversions in section 4.8.

"Exception standard" means the standard for exceptions established in section 4.9.4.

"Intra-basin transfer" means the transfer of water from the watershed of one (1) of the Great Lakes into the watershed of another Great Lake.

"Measures" means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice, or other procedure.

"New or increased diversion" means a new diversion, an increase in an existing diversion, or the alteration of an existing withdrawal so that it becomes a diversion.

"New or increased withdrawal or consumptive use" means a new withdrawal or consumptive use or an increase in an existing withdrawal or consumptive use.

"Originating party" means the party within whose jurisdiction an application or registration is made or required.

"Party" means a state party to this compact.

"Person" means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

"Product" means something produced in the basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or end use consumers.

(i) Water used as part of the packaging of a product shall be considered to be part of the product.

(ii) Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the basin is not a product or part of a product.

(iii) Except as provided in item (i), water which is transferred as part of a public or private supply is not a product or part of a product.

(iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a product.

"Proposal" means a withdrawal, diversion, or consumptive use of water that is subject to this compact.

"Province" means Ontario or Québec.

"Public water supply purposes" means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water withdrawn directly from the basin and not through such a system shall not be considered to be used for public water supply purposes.

"Regional body" means the members of the council and the premiers of Ontario and Québec or their designee as established by the agreement.

"Regional review" means the collective review by the regional body as described in article 4 of this compact.

"Source watershed" means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake or from the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If water is withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the source watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was withdrawn.

"Standard of review and decision" means the exception standard, decision making standard, and reviews as outlined in

article 4 of this compact.

"State" means one (1) of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, or Wisconsin, or the Commonwealth of Pennsylvania.

"Straddling community" means any incorporated city, town, or the equivalent thereof, wholly within any county that lies partly or completely within the basin, whose corporate boundary existing as of the effective date of this compact, is partly within the basin or partly within two (2) Great Lakes watersheds.

"Technical review" means a detailed review conducted to determine whether or not a proposal that requires regional review under this compact meets the standard of review and decision following procedures and guidelines as set out in this compact.

"Water" means ground or surface water contained within the basin.

"Water dependent natural resources" means the interacting components of land, water, and living organisms affected by the waters of the basin.

"Waters of the basin" or "basin water" means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including tributary groundwater, within the basin.

"Withdrawal" means the taking of water from surface water or groundwater. "Withdraw" has a corresponding meaning.

Section 1.3. Findings and purposes. The legislative bodies of the respective parties hereby find and declare:

1. Findings:

- a. the waters of the basin are precious public natural resources shared and held in trust by the states;
- b. the waters of the basin are interconnected and part of a single hydrologic system;
- c. the waters of the basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem; and, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;
- d. future diversions and consumptive uses of basin water resources have the potential to significantly impact the environment, economy, and welfare of the Great Lakes—St. Lawrence River region;
- e. continued sustainable, accessible, and adequate water supplies for the people and economy of the basin are of vital importance; and
- f. the parties have a shared duty to protect, conserve, restore, improve, and manage the renewable but finite waters of the basin for the use, benefit, and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving, and managing the basin waters is through the joint pursuit of unified and cooperative principles, policies, and programs mutually agreed

upon, enacted, and adhered to by all parties.

2. Purposes:

- a. to act together to protect, conserve, restore, improve, and effectively manage the waters and water dependent natural resources of the basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the basin ecosystem;
- b. to remove causes of present and future controversies;
- c. to provide for cooperative planning and action by the parties with respect to such water resources;
- d. to facilitate consistent approaches to water management across the basin while retaining state management authority over water management decisions within the basin;
- e. to facilitate the exchange of data, strengthen the scientific information base upon which decisions are made, and engage in consultation on the potential effects of proposed withdrawals and losses on the waters and water dependent natural resources of the basin;
- f. to prevent significant adverse impacts of withdrawals and losses on the basin's ecosystems and watersheds;
- g. to promote interstate and state-provincial comity; and
- h. to promote an adaptive management approach to the conservation and management of basin water resources, which recognizes, considers, and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the basin's waters and water dependent natural resources.

Section 1.4. Science.

1. The parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound water management decision making under this compact.
2. The strategy shall guide the collection and application of scientific information to support:
 - a. an improved understanding of the individual and cumulative impacts of withdrawals from various locations and water sources on the basin ecosystem and to develop a mechanism by which impacts of withdrawals may be assessed;
 - b. the periodic assessment of cumulative impacts of withdrawals, diversions, and consumptive uses on the Great Lakes and St. Lawrence River watershed basin;
 - c. improved scientific understanding of the waters of the basin;
 - d. improved understanding of the role of groundwater in basin water resources management; and
 - e. the development, transfer, and application of science and research related to water conservation and water use efficiency.

ARTICLE 2

ORGANIZATION

Section 2.1. Council created. The Great Lakes—St. Lawrence

River Basin water resources council is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective parties.

Section 2.2. Council membership. The council shall consist of the governors of the parties, ex officio.

Section 2.3. Alternates. Each member of the council shall appoint at least one (1) alternate who may act in his or her place and stead, with authority to attend all meetings of the council and with power to vote in the absence of the member. Unless otherwise provided by law of the party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

Section 2.4. Voting.

1. Each member is entitled to one (1) vote on all matters that may come before the council.
2. Unless otherwise stated, the rule of decision shall be by a simple majority.
3. The council shall annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the parties by unanimous vote of the council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective parties.
4. The participation of council members from a majority of the parties shall constitute a quorum for the transaction of business at any meeting of the council.

Section 2.5. Organization and procedure. The council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review, and consideration of proposals that come before the council for its review and action. The council shall organize, annually, by the election of a chair and vice chair from among its members. Each member may appoint an adviser, who may attend all meetings of the council and its committees, but shall not have voting power. The council may employ or appoint professional and administrative personnel, including an executive director, as it may deem advisable, to carry out the purposes of this compact.

Section 2.6. Use of existing offices and agencies. It is the policy of the parties to preserve and utilize the functions, powers, and duties of existing offices and agencies of government to the extent consistent with this compact. Further, the council shall promote and aid the coordination of the activities and programs of the parties concerned with water resources management in the basin. To this end, but without limitation, the council may:

1. advise, consult, contract, assist, or otherwise cooperate with any and all such agencies;
2. employ any other agency or instrumentality of any of the parties for any purpose; and
3. develop and adopt plans consistent with the water resources plans of the parties.

Section 2.7. Jurisdiction. The council shall have, exercise, and discharge its functions, powers, and duties within the limits of the basin. Outside the basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the basin and subject to the consent of the jurisdiction wherein it proposes to act.

Section 2.8. Status, immunities, and privileges. The council, its members, and personnel in their official capacity and when engaged directly in the affairs of the council, its property, and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the parties, except to the extent that the council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

The property and assets of the council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

The council, its property, and its assets, income and the operations it carries out pursuant to this compact shall be immune from all taxation by or under the authority of any of the parties or any political subdivision thereof. However, in lieu of property taxes the council may make reasonable payments to local taxing districts in annual amounts that shall approximate the taxes lawfully assessed upon similar property.

Section 2.9. Advisory committees. The council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, tribal, county, and local governments, water resources agencies, water using industries and sectors, water interest groups, and academic experts in related fields.

ARTICLE 3

GENERAL POWERS AND DUTIES

Section 3.1. General. The waters and water dependent natural resources of the basin are subject to the sovereign right and responsibilities of the parties, and it is the purpose of this compact to provide for joint exercise of such powers of sovereignty by the council in the common interests of the people of the region, in the manner and to the extent provided in this compact. The council and the parties shall use the standard of review and decision and procedures contained in or adopted pursuant to this compact as the means to exercise their authority under this compact.

The council may revise the standard of review and decision, after consultation with the provinces and upon unanimous vote of all council members, by regulation duly adopted in accordance with section 3.3 of this compact and in accordance with each party's respective statutory authorities and applicable procedures.

The council shall identify priorities and develop plans and policies relating to basin water resources. It shall adopt and promote uniform and coordinated policies for water resources conservation and management in the basin.

Section 3.2. Council powers. The council may:

1. plan;
2. conduct research and collect, compile, analyze,

interpret, report, and disseminate data on water resources and uses;

3. forecast water levels;

4. conduct investigations;

5. institute court actions;

6. design, acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of this compact;

7. make contracts;

8. receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by any party or by any other public or private agency, corporation, or individual; and

9. exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

Section 3.3. Rules and regulations.

1. The council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of this compact. The council may adopt by regulation, after public notice and public hearing, reasonable application fees with respect to those proposals for exceptions that are subject to council review under section 4.9 of this compact. Any rule or regulation of the council, other than one (1) which deals solely with the internal management of the council or its property, shall be adopted only after public notice and hearing.

2. Each party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce this compact and the programs adopted by such party to carry out the management programs contemplated by this compact.

Section 3.4. Program review and findings.

1. Each party shall submit a report to the council and the regional body detailing its water management and conservation and efficiency programs that implement this compact. The report shall set out the manner in which water withdrawals are managed by sector, water source, quantity, or any other means, and how the provisions of the standard of review and decision and conservation and efficiency programs are implemented. The first report shall be provided by each party one (1) year from the effective date of this compact and thereafter every five (5) years.

2. The council, in cooperation with the provinces, shall review its water management and conservation and efficiency programs and those of the parties that are established in this compact and make findings on whether the water management program provisions in this compact are being met, and if not, recommend options to assist the parties in meeting the provisions of this compact. Such review shall take place:

a. thirty (30) days after the first report is submitted by all parties;

b. every five (5) years after the effective date of this compact; and

c. at any other time at the request of one (1) of the parties.

3. As one (1) of its duties and responsibilities, the council may recommend a range of approaches to the parties with respect to the development, enhancement, and application of water management and conservation and efficiency programs to implement the standard of review and decision reflecting improved scientific understanding of the waters of the basin, including groundwater, and the impacts of withdrawals on the basin ecosystem.

ARTICLE 4

WATER MANAGEMENT AND REGULATION

Section 4.1. Water resources inventory, registration, and reporting.

1. Within five (5) years of the effective date of this compact, each party shall develop and maintain a water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the water resources of the party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of withdrawals, diversions, and consumptive uses. To the extent feasible, the water resources inventory shall be developed in cooperation with local, state, federal, tribal, and other private agencies and entities, as well as the council. Each party's agencies shall cooperate with that party in the development and maintenance of the inventory.

2. The council shall assist each party to develop a common base of data regarding the management of the water resources of the basin and to establish systematic arrangements for the exchange of those data with other states and provinces.

3. To develop and maintain a compatible base of water use information, within five (5) years of the effective date of this compact any person who withdraws water in an amount of one hundred thousand (100,000) gallons per day or greater average in any thirty (30) day period (including consumptive uses) from all sources, or diverts water of any amount, shall register the withdrawal or diversion by a date set by the council unless the person has previously registered in accordance with an existing state program. The person shall register the withdrawal or diversion with the originating party using a form prescribed by the originating party that shall include, at a minimum and without limitation:

a. the name and address of the registrant and date of registration;

b. the locations and sources of the withdrawal or diversion;

c. the capacity of the withdrawal or diversion per day and the amount withdrawn or diverted from each source;

- d. the uses made of the water;
- e. places of use and places of discharge; and
- f. such other information as the originating party may require.

All registrations shall include an estimate of the volume of the withdrawal or diversion in terms of gallons per day average in any thirty (30) day period.

4. All registrants shall annually report the monthly volumes of the withdrawal, consumptive use, and diversion in gallons to the originating party and any other information requested by the originating party.

5. Each party shall annually report the information gathered pursuant to this section to a Great Lakes—St. Lawrence River water use data base repository and aggregated information shall be made publicly available, consistent with the confidentiality requirements in section 8.3 of this compact.

6. Information gathered by the parties pursuant to this section shall be used to improve the sources and applications of scientific information regarding the waters of the basin and the impacts of the withdrawals and diversions from various locations and water sources on the basin ecosystem, and to better understand the role of groundwater in the basin. The council and the parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and cumulative impacts of withdrawals, consumptive uses, and diversions shall be assessed.

Section 4.2. Water conservation and efficiency programs.

1. The council commits to identify, in cooperation with the provinces, basinwide water conservation and efficiency objectives to assist the parties in developing their water conservation and efficiency program. These objectives are based on the goals of:

- a. ensuring improvement of the waters and water dependent natural resources;
- b. protecting and restoring the hydrologic and ecosystem integrity of the basin;
- c. retaining the quantity of surface water and groundwater in the basin;
- d. ensuring sustainable use of waters of the basin; and
- e. promoting the efficiency of use and reducing losses and waste of water.

2. Within two (2) years of the effective date of this compact, each party shall develop its own water conservation and efficiency goals and objectives consistent with the basinwide goals and objectives, and shall develop and implement a water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the party's goals and objectives. Each party shall annually assess its programs in meeting the party's goals and objectives, report to the council and the regional body and make this annual assessment available to the public.

3. Beginning five (5) years after the effective date of this compact, and every five (5) years thereafter, the council, in cooperation with the provinces, shall review and modify as appropriate the basinwide objectives, and the parties

shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of water use, new resource demands and threats, and cumulative impact assessment under section 4.15.

4. Within two (2) years of the effective date of this compact, the parties commit to promote environmentally sound and economically feasible water conservation measures such as:

- a. measures that promote efficient use of water;
- b. identification and sharing of best management practices and state of the art conservation and efficiency technologies;
- c. application of sound planning principles;
- d. demand-side and supply-side measures or incentives; and
- e. development, transfer, and application of science and research.

5. Each party shall implement in accordance with paragraph 2 above a voluntary or mandatory water conservation program for all, including existing, basin water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

Section 4.3. Party powers and duties.

1. Each party, within its jurisdiction, shall manage and regulate new or increased withdrawals, consumptive uses, and diversions, including exceptions, in accordance with this compact.

2. Each party shall require an applicant to submit an application in such manner and with such accompanying information as the party shall prescribe.

3. No party may approve a proposal if the party determines that the proposal is inconsistent with this compact or the standard of review and decision or any implementing rules or regulations promulgated thereunder. The party may approve, approve with modifications, or disapprove any proposal depending on the proposal's consistency with this compact and the standard of review and decision.

4. Each party shall monitor the implementation of any approved proposal to ensure consistency with the approval and may take all necessary enforcement actions.

5. No party shall approve a proposal subject to council or regional review, or both, pursuant to this compact unless it shall have been first submitted to and reviewed by either the council or regional body, or both, and approved by the council, as applicable. Sufficient opportunity shall be provided for comment on the proposal's consistency with this compact and the standard of review and decision. All such comments shall become part of the party's formal record of decision, and the party shall take into consideration any such comments received.

Section 4.4. Requirement for originating party approval. No proposal subject to management and regulation under this compact shall hereafter be undertaken by any person unless it shall have been approved by the originating party.

Section 4.5. Regional review.**1. General.**

- a. It is the intention of the parties to participate in regional review of proposals with the provinces, as described in this compact and the agreement.
- b. Unless the applicant or the originating party otherwise requests, it shall be the goal of the regional body to conclude its review no later than ninety (90) days after notice under paragraph 2 of this section of such proposal is received from the originating party.
- c. Proposals for exceptions subject to regional review shall be submitted by the originating party to the regional body for regional review, and where applicable, to the council for concurrent review.
- d. The parties agree that the protection of the integrity of the Great Lakes – St. Lawrence River basin ecosystem shall be the overarching principle for reviewing proposals subject to regional review, recognizing uncertainties with respect to demands that may be placed on basin water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data, and the extent to which diversions may harm the integrity of the basin ecosystem.
- e. The originating party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a proposal, and shall consult with the applicant throughout the regional review process.
- f. A majority of the members of the regional body may request regional review of a regionally significant or potentially precedent setting proposal. Such regional review must be conducted, to the extent possible, within the time frames set forth in this section. Any such regional review shall be undertaken only after consulting the applicant.

2. Notice from originating party to the regional body.

- a. The originating party shall determine if a proposal is subject to regional review. If so, the originating party shall provide timely notice to the regional body and the public.
- b. Such notice shall not be given unless and until all information, documents, and the originating party's technical review needed to evaluate whether the proposal meets the standard of review and decision have been provided.
- c. An originating party may:
 - i. provide notice to the regional body of an application, even if notification is not required; or
 - ii. request regional review of an application, even if regional review is not required. Any such regional review shall be undertaken only after consulting the applicant.
- d. An originating party may provide preliminary notice of a potential proposal.

3. Public participation.

- a. To ensure adequate public participation, the regional body shall adopt procedures for the review of proposals that are subject to regional review in accordance with this article.
- b. The regional body shall provide notice to the public of a proposal undergoing regional review. Such notice shall indicate that the public has an opportunity to comment in writing to the regional body on whether the proposal meets the standard of review and decision.
- c. The regional body shall hold a public meeting in the state or province of the originating party in order to receive public comment on the issue of whether the proposal under consideration meets the standard of review and decision.
- d. The regional body shall consider the comments received before issuing a declaration of finding.
- e. The regional body shall forward the comments it receives to the originating party.

4. Technical review.

- a. The originating party shall provide the regional body with its technical review of the proposal under consideration.
- b. The originating party's technical review shall thoroughly analyze the proposal and provide an evaluation of the proposal sufficient for a determination of whether the proposal meets the standard of review and decision.
- c. Any member of the regional body may conduct their own technical review of any proposal subject to regional review.
- d. At the request of the majority of its members, the regional body shall make such arrangements as it considers appropriate for an independent technical review of a proposal.
- e. All parties shall exercise their best efforts to ensure that a technical review undertaken under sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the originating party on the application. Unless the applicant or the originating party otherwise requests, all technical reviews shall be completed no later than sixty (60) days after the date the notice of the proposal was given to the regional body.

5. Declaration of finding.

- a. The regional body shall meet to consider a proposal. The applicant shall be provided with an opportunity to present the proposal to the regional body at such time.
- b. The regional body, having considered the notice, the originating party's technical review, any other independent technical review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized tribes, and any other information that is provided under this compact shall issue a declaration of finding that the proposal under consideration:
 - i. meets the standard of review and decision;
 - ii. does not meet the standard of review and decision;
 or,

iii. would meet the standard of review and decision if certain conditions were met.

c. An originating party may decline to participate in a declaration of finding made by the regional body.

d. The parties recognize and affirm that it is preferable for all members of the regional body to agree whether the proposal meets the standard of review and decision.

e. If the members of the regional body who participate in the declaration of finding all agree, they shall issue a written declaration of finding with consensus.

f. In the event that the members cannot agree, the regional body shall make every reasonable effort to achieve consensus within twenty-five (25) days.

g. Should consensus not be achieved, the regional body may issue a declaration of finding that presents different points of view and indicates each party's conclusions.

h. The regional body shall release the declarations of finding to the public.

i. The originating party and the council shall consider the declaration of finding before making a decision on the proposal.

Section 4.6. Proposals subject to prior notice.

1. Beginning no later than five (5) years after the effective date of this compact, the originating party shall provide all parties and the provinces with detailed and timely notice and an opportunity to comment within ninety (90) days on any proposal for a new or increased consumptive use of five million (5,000,000) gallons per day or greater average in any ninety (90) day period. Comments shall address whether or not the proposal is consistent with the standard of review and decision. The originating party shall provide a response to any such comment received from another party.

2. A party may provide notice, an opportunity to comment, and a response to comments even if this is not required under paragraph 1 of this section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the applicant.

Section 4.7. Council actions.

1. Proposals for exceptions subject to council review shall be submitted by the originating party to the council for council review, and where applicable, to the regional body for concurrent review.

2. The council shall review and take action on proposals in accordance with this compact and the standard of review and decision. The council shall not take action on a proposal subject to regional review pursuant to this compact unless the proposal shall have been first submitted to and reviewed by the regional body. The council shall consider any findings resulting from such review.

Section 4.8. Prohibition of new or increased diversions. All new or increased diversions are prohibited, except as provided for in this article.

Section 4.9. Exceptions to the prohibition of diversions.

1. Straddling communities. A proposal to transfer water to an area within a straddling community but outside the

basin or outside the source Great Lake watershed shall be excepted from the prohibition against diversions and be managed and regulated by the originating party provided that, regardless of the volume of water transferred, all the water so transferred shall be used solely for public water supply purposes within the straddling community, and:

a. all water withdrawn from the basin shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

i. is part of a water supply or wastewater treatment system that combines water from inside and outside of the basin;

ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin; and

iii. maximizes the portion of water returned to the source watershed as basin water and minimizes the surface water or groundwater from outside the basin;

b. if the proposal results from a new or increased withdrawal of one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also meet the exception standard; and

c. if the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period, the proposal shall also undergo regional review.

2. Intra-basin transfer. A proposal for an intra-basin transfer that would be considered a diversion under this compact, and not already excepted pursuant to paragraph 1 of this section, shall be excepted from the prohibition against diversions, provided that:

a. If the proposal results from a new or increased withdrawal less than one hundred thousand (100,000) gallons per day average over any ninety (90) day period, the proposal shall be subject to management and regulation at the discretion of the originating party.

b. If the proposal results from a new or increased withdrawal one hundred thousand (100,000) gallons per day or greater average over any ninety (90) day period and if the consumptive use resulting from the withdrawal is less than five million (5,000,000) gallons per day average over any ninety (90) day period:

i. the proposal shall meet the exception standard and be subject to management and regulation by the originating party, except that the water may be returned to another Great Lake watershed rather than the source watershed;

ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies;

and

iii. the originating party shall provide notice to the other parties prior to making any decision with respect to the proposal.

c. If the proposal results in a new or increased consumptive use of five million (5,000,000) gallons per day or greater average over any ninety (90) day period:

i. the proposal shall be subject to management and regulation by the originating party and shall meet the exception standard, ensuring that water withdrawn shall be returned to the source watershed;

ii. the applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the water will be transferred, including conservation of existing water supplies;

iii. the proposal undergoes regional review; and

iv. the proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.

3. **Straddling counties.** A proposal to transfer water to a community within a straddling county that would be considered a diversion under this compact shall be excepted from the prohibition against diversions, provided that it satisfies all of the following conditions:

a. The water shall be used solely for the public water supply purposes of the community within a straddling county that is without adequate supplies of potable water.

b. The proposal meets the exception standard, maximizing the portion of water returned to the source watershed as basin water and minimizing the surface water or groundwater from outside the basin.

c. The proposal shall be subject to management and regulation by the originating party, regardless of its size.

d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies.

e. Caution shall be used in determining whether or not the proposal meets the conditions for this exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the basin ecosystem.

f. The proposal undergoes regional review.

g. The proposal is approved by the council. Council approval shall be given unless one (1) or more council members vote to disapprove.

A proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to waters of the basin.

4. **Exception standard.** Proposals subject to management and regulation in this section shall be declared to meet this exception standard and may be approved as appropriate

only when the following criteria are met:

a. The need for all or part of the proposed exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies.

b. The exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed.

c. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use. No surface water or groundwater from outside the basin may be used to satisfy any portion of this criterion except if it:

i. is part of a water supply or wastewater treatment system that combines water from inside and outside the basin; and

ii. is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the basin.

d. The exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources of the basin with consideration given to the potential cumulative impacts of any precedent setting consequences associated with the proposal.

e. The exception will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures to minimize water withdrawals or consumptive use.

f. The exception will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.

g. All other applicable criteria in this section have also been met.

Section 4.10. Management and regulation of new or increased withdrawals and consumptive uses.

1. Within five (5) years of the effective date of this compact, each party shall create a program for the management and regulation of new or increased withdrawals and consumptive uses by adopting and implementing measures consistent with the decision making standard. Each party, through a considered process, shall set and may modify threshold levels for the regulation of new or increased withdrawals in order to assure an effective and efficient water management program that will ensure that uses overall are reasonable, that withdrawals overall will not result in significant impacts to the waters and water dependent natural resources of the basin determined on the basis of significant impacts to the physical, chemical, and biological integrity of source watersheds, and that all other objectives of the compact are achieved. Each party may determine the scope and thresholds of its program, including which new or increased withdrawals and consumptive uses will be subject to the program.

2. Any party that fails to set threshold levels that comply with paragraph 1 of this section any time before ten (10) years after the effective date of this compact shall apply a threshold level for management and regulation of all new or increased withdrawals of one hundred thousand (100,000) gallons per day or greater average in any ninety (90) day period.

3. The parties intend programs for new or increased withdrawals and consumptive uses to evolve as may be necessary to protect basin waters. Pursuant to section 3.4, the council, in cooperation with the provinces, shall periodically assess the water management programs of the parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the decision making standard.

Section 4.11. Decision making standard. Proposals subject to management and regulation in section 4.10 shall be declared to meet this decision making standard and may be approved as appropriate only when the following criteria are met:

1. All water withdrawn shall be returned, either naturally or after use, to the source watershed less an allowance for consumptive use.

2. The withdrawal or consumptive use will be implemented so as to ensure that the proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the waters and water dependent natural resources and the applicable source watershed.

3. The withdrawal or consumptive use will be implemented so as to incorporate environmentally sound and economically feasible water conservation measures.

4. The withdrawal or consumptive use will be implemented so as to ensure that it is in compliance with all applicable municipal, state, and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909.

5. The proposed use is reasonable, based upon a consideration of the following factors:

a. Whether the proposed withdrawal or consumptive use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of water.

b. If the proposal is for an increased withdrawal or consumptive use, whether efficient use is made of existing water supplies.

c. The balance between economic development, social development, and environmental protection of the proposed withdrawal and use and other existing or planned withdrawals and water uses sharing the water source.

d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources.

e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed withdrawal and use under foreseeable

conditions, to other lawful consumptive or nonconsumptive uses of water or to the quantity or quality of the waters and water dependent natural resources of the basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts.

f. If a proposal includes restoration of hydrologic conditions and functions of the source watershed, the party may consider that.

Section 4.12. Applicability.

1. **Minimum standard.** This standard of review and decision shall be used as a minimum standard. Parties may impose a more restrictive decision making standard for withdrawals under their authority. It is also acknowledged that although a proposal meets the standard of review and decision it may not be approved under the laws of the originating party that has implemented more restrictive measures.

2. Baseline.

a. To establish a baseline for determining a new or increased diversion, consumptive use, or withdrawal, each party shall develop either or both of the following lists for their jurisdiction:

i. A list of existing withdrawal approvals as of the effective date of the compact.

ii. A list of the capacity of existing systems as of the effective date of this compact. The capacity of the existing systems should be presented in terms of withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

b. For all purposes of this compact, volumes of diversions, consumptive uses, or withdrawals of water set forth in the list prepared by each party in accordance with this section, shall constitute the baseline volume.

c. The list shall be furnished to the regional body and the council within one (1) year of the effective date of this compact.

3. **Timing of additional applications.** Applications for new or increased withdrawals, consumptive uses, or exceptions shall be considered cumulatively within ten (10) years of any application.

4. **Change of ownership.** Unless a new owner proposes a project that shall result in a proposal for a new or increased diversion or consumptive use subject to regional review or council approval, the change of ownership in and of itself shall not require regional review or council approval.

5. **Groundwater.** The basin surface water divide shall be used for the purpose of managing and regulating new or increased diversions, consumptive uses, or withdrawals of surface water and groundwater.

6. **Withdrawal systems.** The total volume of surface water and groundwater resources that supply a common

distribution system shall determine the volume of a withdrawal, consumptive use, or diversion.

7. Connecting channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

8. Transmission in water lines. Transmission of water within a line that extends outside the basin as it conveys water from one (1) point to another within the basin shall not be considered a diversion if none of the water is used outside the basin.

9. Hydrologic units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

10. Bulk water transfer. A proposal to withdraw water and to remove it from the basin in any container greater than five and seven-tenths (5.7) gallons shall be treated under this compact in the same manner as a proposal for a diversion. Each party shall have the discretion, within its jurisdiction, to determine the treatment of proposals to withdraw water and to remove it from the basin in any container of five and seven-tenths (5.7) gallons or less.

Section 4.13. Exemptions. Withdrawals from the basin for the following purposes are exempt from the requirements of article 4.

1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

2. To use in a noncommercial project on a short term basis for firefighting, humanitarian, or emergency response purposes.

Section 4.14. United States Supreme Court decree: *Wisconsin et al. v. Illinois et al.*

1. Notwithstanding any terms of this compact to the contrary, with the exception of paragraph 5 of this section, current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois shall be governed by the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.* and shall not be subject to the terms of this compact nor any rules or regulations promulgated pursuant to this compact. This means that, with the exception of paragraph 5 of this section, for purposes of this compact, current, new, or increased withdrawals, consumptive uses, and diversions of basin water within the state of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.*

2. The parties acknowledge that the United States Supreme Court decree in *Wisconsin et al. v. Illinois et al.* shall continue in full force and effect, that this compact shall not modify any terms thereof, and that this compact shall grant the parties no additional rights, obligations, remedies, or defenses thereto. The parties specifically acknowledge that this compact shall not prohibit or limit the state of Illinois in any manner from seeking additional basin water as allowed under the terms of the United States Supreme Court decree in *Wisconsin et al. v. Illinois*

et al., any other party from objecting to any request by the state of Illinois for additional basin water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the parties to this compact who are also parties to the decree shall seek formal input from the Canadian provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

3. With the exception of paragraph 5 of this section, because current, new, or increased withdrawals, consumptive uses, and diversions of basin water by the state of Illinois are not subject to the terms of this compact, the state of Illinois is prohibited from using any term of this compact, including section 4.9 of this compact, to seek new, or increased withdrawals, consumptive uses, or diversions of basin water.

4. With the exception of paragraph 5 of this section, because sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (paragraphs 1, 2, 3, 4, 6, and 10 only), and 4.13 of this compact all relate to current, new, or increased withdrawals, consumptive uses, and diversions of basin waters, said provisions do not apply to the state of Illinois. All other provisions of this compact not listed in the preceding sentence shall apply to the state of Illinois, including the water conservation programs provision of section 4.2 of this compact.

5. In the event of a proposal for a diversion of basin water for use outside the territorial boundaries of the parties to this compact, decisions by the state of Illinois regarding such a proposal would be subject to all terms of this compact, except paragraphs 1, 3, and 4 of this section.

6. For purposes of the state of Illinois' participation in this compact, the entirety of this section 4.14 of this compact is necessary for the continued implementation of this compact and, if severed, this compact shall no longer be binding on or enforceable by or against the state of Illinois.

Section 4.15. Assessment of cumulative impacts.

1. The parties in cooperation with the provinces shall collectively conduct within the basin, on a lake watershed and St. Lawrence River basin basis, a periodic assessment of the cumulative impacts of withdrawals, diversions, and consumptive uses from the waters of the basin, every five (5) years or each time the incremental basin water losses reach fifty million (50,000,000) gallons per day average in any ninety (90) day period in excess of the quantity at the time of the most recent assessment, whichever comes first, or at the request of one (1) or more of the parties. The assessment shall form the basis for a review of the standard of review and decision, council and party regulations, and their application. This assessment shall:

- utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment

Canada guidelines;

b. give substantive consideration to climate change or other significant threats to basin waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate measures to exercise caution in cases of uncertainty if serious damage may result;

c. consider adaptive management principles and approaches, recognizing, considering, and providing adjustments for the uncertainties in, and evolution of science concerning the basin's water resources, watersheds, and ecosystems, including potential changes to basinwide processes, such as lake level cycles and climate.

2. The parties have the responsibility of conducting this cumulative impact assessment. Applicants are not required to participate in this assessment.

3. Unless required by other statutes, applicants are not required to conduct a separate cumulative impact assessment in connection with an application but shall submit information about the potential impacts of a proposal to the quantity or quality of the waters and water dependent natural resources of the applicable source watershed. An applicant may, however, provide an analysis of how their proposal meets the no significant adverse cumulative impact provision of the standard of review and decision.

ARTICLE 5

TRIBAL CONSULTATION

Section 5.1. Consultation with tribes.

1. In addition to all other opportunities to comment pursuant to section 6.2 of this compact, appropriate consultations shall occur with federally recognized tribes in the originating party for all proposals subject to council or regional review pursuant to this compact. Such consultations shall be organized in the manner suitable to the individual proposal and the laws and policies of the originating party.

2. All federally recognized tribes within the basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the council or the regional body, or both, and other relevant organizations on whether the proposal meets the requirements of the standard of review and decision when a proposal is subject to regional review or council approval. Any notice from the council shall inform the tribes of any meeting or hearing that is to be held under section 6.2 of this compact and invite them to attend. The parties and the council shall consider the comments received under this section before approving, approving with modifications, or disapproving any proposal subject to council or regional review.

3. In addition to the specific consultation mechanisms described above, the council shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from, federally recognized tribes on matters to be dealt with by the council, and the council shall seek to establish mechanisms

and processes with federally recognized tribes designed to facilitate ongoing scientific and technical interaction and data exchange regarding matters falling within the scope of this compact. This may include participation of tribal representatives on advisory committees established under this compact or such other processes that are mutually agreed upon with federally recognized tribes individually or through duly authorized intertribal agencies or bodies.

ARTICLE 6

PUBLIC PARTICIPATION

Section 6.1. Meetings, public hearings, and records.

1. The parties recognize the importance and necessity of public participation in promoting management of the water resources of the basin. Consequently, all meetings of the council shall be open to the public, except with respect to issues of personnel.

2. The minutes of the council shall be a public record open to inspection at its offices during regular business hours.

Section 6.2. Public participation. It is the intent of the council to conduct public participation processes concurrently and jointly with processes undertaken by the parties and through regional review. To ensure adequate public participation, each party or the council shall ensure procedures for the review of proposals subject to the standard of review and decision consistent with the following requirements:

1. Provide public notification of receipt of all applications and a reasonable opportunity for the public to submit comments before applications are acted upon.

2. Assure public accessibility to all documents relevant to an application, including public comment received.

3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an application, date, time, and place of such a meeting or hearing, and procedures for conducting of the same.

4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions, and disapprovals.

ARTICLE 7

DISPUTE RESOLUTION AND ENFORCEMENT

Section 7.1. Good faith implementation. Each of the parties pledges to support implementation of all provisions of this compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other party carrying out any provision of this compact.

Section 7.2. Alternative dispute resolution.

1. Desiring that this compact be carried out in full, the parties agree that disputes between the parties regarding interpretation, application, and implementation of this compact shall be settled by alternative dispute resolution.

2. The council, in consultation with the provinces, shall provide by rule procedures for the resolution of disputes pursuant to this section.

Section 7.3. Enforcement.

1. Any person aggrieved by any action taken by the council pursuant to the authorities contained in this compact shall be entitled to a hearing before the council. Any person aggrieved by a party action shall be entitled to a hearing pursuant to the relevant party's

administrative procedures and laws. After exhaustion of such administrative remedies:

- (i) any aggrieved person shall have the right to judicial review of a council action in the United States District Courts for the District of Columbia or the district court in which the council maintains offices, provided such action is commenced within ninety (90) days; and
- (ii) any aggrieved person shall have the right to judicial review of a party's action in the relevant party's court of competent jurisdiction, provided that an action or proceeding for such review is commenced within the time frames provided for by the party's law. For the purposes of this paragraph, a state or province is deemed to be an aggrieved person with respect to any party action pursuant to this compact.

2.a. Any party or the council may initiate actions to compel compliance with the provisions of this compact, and the rules and regulations promulgated hereunder by the council. Jurisdiction over such actions is granted to the court of the relevant party, as well as the United States District Courts for the District of Columbia and the district court in which the council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.

2.b. Each party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by this compact in accordance with the provisions of the laws adopted in each party's jurisdiction.

3. Any aggrieved person, party, or the council may commence a civil action in the relevant party's courts and administrative systems to compel any person to comply with this compact should any such person, without approval having been given, undertake a new or increased withdrawal, consumptive use, or diversion that is prohibited or subject to approval pursuant to this compact.

a. No action under this subsection may be commenced if:

- i. the originating party or council approval for the new or increased withdrawal, consumptive use, or diversion has been granted; or
- ii. the originating party or council has found that the new or increased withdrawal, consumptive use, or diversion is not subject to approval pursuant to this compact.

b. No action under this subsection may be commenced unless:

- i. a person commencing such action has first given sixty (60) days prior notice to the originating party, the council, and the person alleged to be in noncompliance; and
- ii. neither the originating party nor the council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with this compact.

The available remedies shall include equitable relief, and

the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

4. Each of the parties may adopt provisions providing additional enforcement mechanisms and remedies, including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this compact.

ARTICLE 8

ADDITIONAL PROVISIONS

Section 8.1. Effect on existing rights.

1. Nothing in this compact shall be construed to affect, limit, diminish, or impair any rights validly established and existing as of the effective date of this compact under state or federal law governing the withdrawal of waters of the basin.

2. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective parties relating to common law water rights.

3. Nothing in this compact is intended to abrogate or derogate from treaty rights or rights held by any tribe recognized by the federal government of the United States based upon its status as a tribe recognized by the federal government of the United States.

4. An approval by a party or the council under this compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, state, or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

Section 8.2. Relationship to agreements concluded by the United States of America.

1. Nothing in this compact is intended to provide nor shall be construed to provide, directly or indirectly, to any person any right, claim, or remedy under any treaty or international agreement nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in this compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

3. Nothing in this compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of this compact.

Section 8.3. Confidentiality.

1. Nothing in this compact requires a party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

2. A party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary, or commercially sensitive information when distributing information to other parties. The party shall summarize or paraphrase any such information in a manner sufficient for the council to exercise its authorities contained in this compact.

Section 8.4. Additional laws. Nothing in this compact shall be construed to repeal, modify, or qualify the authority of any party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of waters within its jurisdiction.

Section 8.5. Amendments and supplements. The provisions of this compact shall remain in full force and effect until amended by action of the governing bodies of the parties and consented to and approved by any other necessary authority in the same manner as this compact is required to be ratified to become effective.

Section 8.6. Severability. Should a court of competent jurisdiction hold any part of this compact to be void or unenforceable, it shall be considered severable from those portions of the compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

Section 8.7. Duration of compact and termination. Once effective, the compact shall continue in force and remain binding upon each and every party unless terminated. This compact may be terminated at any time by a majority vote of the parties. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE 9 EFFECTUATION

Section 9.1. Repealer. All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

Section 9.2. Effectuation by chief executive. The governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the compact and the initial organization and operation thereunder.

Section 9.3. Entire agreement. The parties consider this compact to be complete and an integral whole. Each provision of this compact is considered material to the entire compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in this compact, any change or amendment made to the compact by any party in its implementing legislation or by the Congress of the United States when giving its consent to this compact is not considered effective unless concurred in by all parties.

Section 9.4. Effective date and execution. This compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. This compact shall be signed and sealed in nine (9) identical original copies by the respective chief executives of the signatory parties. One (1) such copy shall be filed with the secretary of state of each of the signatory parties

or in accordance with the laws of the state in which the filing is made, and one (1) copy shall be filed and retained in the archives of the council upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of this compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective governors do hereby, in accordance with the authority conferred by law, sign this compact in nine (9) duplicate original copies, attested by the respective secretaries of state, and have caused the seals of the respective states to be hereunto affixed this ____ day of (month), (year).

(Reference is to SB 22 as introduced.)
and when so amended that said bill be reassigned to the Senate Committee on Energy and Environmental Affairs.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 83, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-12-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 13. Review of Certain Contracts for Services

Sec. 1. As used in this chapter, "state agency" has the meaning set forth in IC 4-13-1(b).

Sec. 2. (a) This section applies only to a contract or agreement:

(1) that is first entered into by:

(A) a state agency; and

(B) a private contractor or private vendor;

after June 30, 2007;

(2) in which the initial term of the contract or agreement plus the term of any possible renewal or extension periods is at least four (4) years;

(3) under which the amount to be paid by the state agency during the initial term of the contract or agreement plus the term of any possible renewal or extension periods:

(A) is at least ten million dollars (\$10,000,000); or

(B) is estimated by the state agency to be at least ten million dollars (\$10,000,000); and

(4) under which the private contractor or private vendor will provide services that before the effective date of the contract or agreement are provided directly by the employees of the state agency.

(b) In addition to any other requirements that must be satisfied, a state agency may not enter into a contract or an agreement described in subsection (a) unless the following

requirements are satisfied:

(1) At least ninety (90) days before entering into the contract or agreement, the state agency must conduct at least one (1) public hearing on the contract or agreement. The state agency must allow public comments and testimony at the public hearing. The public hearing must be held in compliance with IC 5-14-1.5.

(2) At least thirty (30) days before the state agency enters into the contract or agreement, the state budget committee must make a recommendation to the budget agency concerning the contract or agreement.

Sec. 3. (a) In addition to any other requirements that must be satisfied, a state agency may have the employees of the state agency directly provide services that, before the services are provided by the employees of the state agency, are provided by a private contractor or private vendor under a contract or an agreement described in section 2(a) of this chapter only if the following requirements are satisfied:

(1) At least ninety (90) days before the employees of the state agency begin directly providing the services, the state agency must conduct at least one (1) public hearing concerning the provision of the services by the employees of the state agency. The state agency must allow public comments and testimony at the public hearing. The public hearing must be held in compliance with IC 5-14-1.5.

(2) At least thirty (30) days before the employees of the state agency begin directly providing the services, the state budget committee must make a recommendation to the budget agency concerning the contract or agreement.

(b) A state agency is not required to comply with the requirements of subsection (a) if the director or other administrative head of the state agency declares that an emergency exists that requires the employees of the state agency to directly provide the services that were provided by a private contractor or private vendor.

(Reference is to SB 83 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 84, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 11-13-4.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b), an Indiana offender on probation or parole who applies to be transferred out of state under the interstate compact for adult supervision shall pay an application fee of

seventy-five dollars (\$75). The application fee shall be used to cover the costs of administering the interstate compact for adult offender supervision.

(b) An offender who has been found indigent by a trial court at the time the offender applies to be transferred out of state under the interstate compact for adult supervision may, at the court's discretion, be required to pay a lesser amount of the cost of the application fee under subsection (a).

(c) An Indiana offender who is on probation shall pay the application fee to the county probation department.

(d) An Indiana offender who is on parole shall pay the application fee to the department of correction.

(e) The application fee paid by an Indiana offender who is on probation shall be transferred to the county treasurer. The county treasurer shall deposit fifty percent (50%) of the money collected under this subsection into the county supplemental adult probation services fund and shall transmit the remaining fifty percent (50%) of the money collected under this subsection to the Indiana judicial center for deposit in the state general fund, to be used to cover the cost of administering the interstate compact for adult offender supervision. **The money transferred to the state general fund under this subsection shall, upon receipt, be transferred to the interstate compact for adult offender supervision account.**

(f) The executive director of the Indiana judicial center shall submit a proposed budget for expenditure of the money deposited in the state general fund under this section to the budget agency in accordance with IC 4-12-1.

(g) The application fee paid by an Indiana offender who is on parole shall be deposited into the state general fund to be used to cover the cost of administering the interstate compact for adult offender supervision.

(h) The commissioner of the department of correction shall submit a proposed budget for expenditure of the money deposited in the state general fund under this section to the budget agency in accordance with IC 4-12-1.

SECTION 2. IC 11-13-4.5-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a)** For purposes of this section "account" refers to the interstate compact for adult offender supervision account within the state general fund created by subsection (b).

(b) The interstate compact for adult offender supervision account is created within the state general fund to pay for administering the interstate compact for adult offender supervision. The account shall be administered by the Indiana judicial center.

(c) The account consists of fees collected under IC 11-13-4.5-4(e).

(d) The expenses of administering the account shall be paid from money in the account.

(e) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(f) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(g) Money may be spent from the account upon appropriation by the general assembly.

SECTION 3. An emergency is declared for this act.
(Reference is to SB 84 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 136, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-14-1-27.5, AS AMENDED BY P.L.1-2006, SECTION 434, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27.5. (a) The board may issue an instructor's license to an individual who is not otherwise licensed to practice dentistry in Indiana if the individual meets the following conditions:

(1) The individual has been licensed or has had the equivalent of a license for five (5) of the preceding nine (9) years to practice dentistry in the United States or in any country, territory, or other recognized jurisdiction.

(2) The individual has been approved under the credentialing process of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry that is accredited by:

(A) the American Dental Association Commission on Dental Accreditation; or

(B) the Joint Commission on Accreditation of Health Care Organizations.

(3) The individual has successfully documented or demonstrated clinical and academic competency to the board.

(4) The individual is fluent in the English language.

(5) The individual passes the written law examination administered by the board.

(6) The individual meets the continuing education requirements required by IC 25-14-3.

(7) The individual pays the licensing fee set by the board under subsection (f).

(b) A license issued under this section must be held by the Indiana school of dentistry for which the licensee is employed.

(c) A license issued under this section does not meet the requirements of section 16 of this chapter and may not be used to obtain a general dentistry license under this article.

(d) A licensee under this section may teach and practice dentistry only at or on behalf of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry.

(e) An instructor's license is valid only during the time the licensee is employed or has a valid employment contract for a full-time faculty position at the Indiana school of dentistry or an

affiliated medical center. The Indiana school of dentistry or the affiliated medical center shall notify the board in writing upon the termination of the employment contract of an individual who is issued a license under this section and surrender the license not later than thirty (30) days after the licensee's employment ceases.

(f) The board shall set a fee for the issuance and renewal of a license under this section.

(g) Unless renewed, a license issued by the board under this section expires annually on a date specified by the agency under IC 25-1-5-4. An applicant for renewal must pay the renewal fee set by the board on or before the renewal date specified by the agency.

(h) Not more than five percent (5%) of the Indiana school of dentistry's full-time faculty may be individuals licensed under this section.

(i) The board shall adopt rules under IC 4-22-2 necessary to implement this section.

(j) This section expires June 30, ~~2008~~ 2013.

(Reference is to SB 136 as introduced.)
and when so amended that said bill be reassigned to the Senate Committee on Health and Provider Services.

LONG, Chair

Report adopted.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Committee appointed to act with a like committee of the House of Representatives to wait upon the Governor and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly begs leave to report that it has performed the duties assigned to it.

LANDSKE, Chair
HERSHMAN

BRODEN
SIPES

Committee of the Senate

Report adopted.

COMMITTEE REPORT

Madam President: The Committee appointed to act with a like committee of the House of Representatives to wait upon the Chief Justice and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly begs leave to report that it has performed the duties assigned to it.

STEELE, Chair
BECKER

ROGERS
MRVAN

Committee of the Senate

Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 4

House Concurrent Resolution 4, sponsored by Senator Rogers:

A CONCURRENT RESOLUTION encouraging large work sites

to actively recruit and support onsite health food vendors.

Whereas, In recent years, the obesity rate in the United States has been increasing at an alarming rate;

Whereas, Employers are spending more than \$13 billion annually on obese and overweight employees;

Whereas, Even as federal and local governments encourage children to eat more healthfully, employers must begin to encourage workers to make better food choices at work;

Whereas, The study "Food at Work: Workplace Solutions for Malnutrition, Obesity and Chronic Diseases" found that improper nutrition costs companies around the world up to 20% in lost productivity;

Whereas, One way for companies to help workers choose healthier food and thereby reduce the amount of lost productivity is to support onsite health food vendors; and

Whereas, When workers enjoy good food at work, employers and employees benefit; when workers are relaxed and well nourished, they are more productive, benefiting their employers and their families: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to encourage large work sites to actively recruit and support onsite health food vendors.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the commissioner of the Indiana Department of Labor.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 5

House Concurrent Resolution 5, sponsored by Senator Rogers:

A CONCURRENT RESOLUTION supporting community health workers who provide community outreach and educational programs to the needy in Indiana.

Whereas, Community health workers provide much needed health care to Hoosiers who are unable to obtain or keep adequate health care coverage or to provide the basic necessities for themselves;

Whereas, In order for these individuals to become fully independent, they need more than just health care; they need information and education;

Whereas, Community outreach and educational programs provide this information and education;

Whereas, These programs can make referrals and facilitate access to resources to bring immediate help in a manner designed to preserve the dignity of individuals and their families; and

Whereas, Community outreach and educational programs can raise the quality of life for low income residents of Indiana through social, educational, and economic development programs that can include development and preservation of affordable housing, job creation and training, educational and social programs, and feeding and sheltering the homeless: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to express its support for community health workers who provide community outreach and educational programs.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 6

House Concurrent Resolution 6, sponsored by Senator Drozda:

A CONCURRENT RESOLUTION honoring Garry Robertson as the 2006 Time Magazine Quality Dealer Award winner.

Whereas, For more than 30 years, the Time Magazine Quality Dealer Award has recognized the exceptional performance and distinguished community service of American car dealers;

Whereas, Garry Robertson, owner of Kokomo Chrysler, is the 2006 recipient of the Time Magazine Quality Dealer Award;

Whereas, Garry Robertson graduated from Northwood University in 1974 with a degree in automotive marketing;

Whereas, Garry Robertson began working in the dealership his father purchased with Gene Beltz in 1983 and purchased it from his father and Beltz in 1990;

Whereas, Garry Robertson is the current Chairman of the Dealers Election Action Committee (DEAC), a position he has held since 2002 at the conclusion of his term as President of the Automobile Dealers Association of Indiana (ADAI);

Whereas, Garry Robertson served on the board of directors of the Kokomo Chamber of Commerce and the Regional Development Council of Ivy Tech Community College, serving as President of the latter since 2002;

Whereas, Garry Robertson has been a member of the ADAI Board for the past ten years; and

Whereas, Garry Robertson and his wife, Melody, reside in Westfield and have a son, Jared, attending Indiana State University, and a daughter, Christina, attending Westfield High School: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana House of Representatives recognizes Garry Robertson for his achievement and his contributions to the community.

SECTION 2. The Principal Clerk of the House of Representatives transmit a copy of this resolution to Garry Robertson and his family.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 9 and the same is herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1034 and 1226 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 1, 2, and 3 and the same are herewith transmitted for further action.

CLINTON MCKAY
Principal Clerk of the House

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 41

Senator Bray called up Engrossed Senate Bill 41 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 8: yeas 43, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Kuzman and Richardson.

Engrossed Senate Bill 165

Senator Ford called up Engrossed Senate Bill 165 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 9: yeas 43, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Orentlicher and Wolkins.

Engrossed Senate Bill 12

Senator Steele called up Engrossed Senate Bill 12 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 10: yeas 43, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Kuzman.

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Senate Bill 156, currently assigned to the Committee on Corrections, Criminal, and Civil Matters, be reassigned to the Committee on Energy and Environmental Affairs.

LONG

Report adopted.

SENATE MOTION

Madam President: I move that Engrossed Senate Bill 132, which is eligible for third reading, be returned to second reading for purposes of amendment.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kruse be added as

coauthor of Senate Bill 192.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Dillon be added as second author and Senator Broden be added as third author of Senate Bill 142.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Dillon be added as second author and Senator Broden be added as third author of Senate Bill 143.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Drozda be added as coauthor of Senate Bill 18.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Ford be added as coauthor of Senate Bill 345.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Alting be added as coauthor of Senate Bill 192.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Engrossed Senate Bill 165.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Merritt be added as second author of Senate Bill 400.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Merritt be removed as author of Senate Bill 400 and that Senator Ford be substituted therefor.

MERRITT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 70 and that Senator M. Young be substituted therefor.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 83 and that Senator Kenley be substituted therefor.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 84 and that Senator Zakas be substituted therefor.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hershman be added as second author of Senate Bill 323.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Zakas and Drozda be added as coauthors of Senate Bill 45.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hershman be added as second author of Senate Bill 207.

DILLON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Walker be added as

second author of Senate Bill 125.

DILLON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Boots be added as second author and Senator Hershman be added as third author of Senate Bill 403.

DILLON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as second author of Senate Bill 276.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 357.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Becker be removed as second author of Senate Bill 9.

BECKER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hershman be removed as third author of Senate Bill 9.

HERSHMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Landske be added as second author, Senator Becker be added as third author, and Senator Hershman be added as coauthor of Senate Bill 9.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, January 22, 2007.

LONG

Motion prevailed.

The Senate adjourned at 2:05 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate